

Revision Petitions – West Godavari District – Revision Petition filed by Smt.B.Vitalamma W/o late Bonumaddi Gangadhara Rao, Eluru, West Godavari District against the orders of the Joint Collector, Eluru, West Godavari – Case Called for Hearing on 24-04-2010 and Heard the Case – Revision Petition Dismissed – Orders – Issued

G.O.Ms.No.602,

Dt:26-06-2010.

Read: the following:-

1. Revision Petition filed by Counsel for Smt.B.Vitalamma W/o late Bonumaddi Gangadhara Rao, Eluru, West Godavari District, dt.24-9-2007
2. Govt.Memo.No.42976/Assign-VI/09-1, dt.01-10-2009.
3. From the Collector, W.G., Lr.No.Roc.7302/2009 (E1), dt.15-4-2009.
4. Govt.Memo.No.42976/Assign-VI/09-3, dt.16-04-2010..
5. Written arguments filed by the counsel for the revision petitioner Smt. B. Vitalamma W/o late Bonumaddi Gangadhara Rao, Eluru, dt.1-5-2010.

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In the reference 1<sup>st</sup> read above, Smt. B. Vitalamma W/o Late Bonumaddi Gangadhara Rao, Eluru, West Godavari District has preferred a revision petition before the Government against the orders of the Joint Collector, West Godavari, Eluru, vide Proceedings dated 14.8.2000 in D.Dis. No.(E3)/1617/90.

2. Government have admitted the revision petition and after examination of the revision petition decided to give an opportunity to the Appellant by way of hearing the case on 24-04-2010. Accordingly, necessary intimations were communicated to the Collector, West Godavari, Eluru and he was requested to furnish original records and remarks for taking further course of action.

3. In the reference third read above, the Collector, West Godavari district has submitted a report to Government.

Brief facts of the case are as follows:-

- a) Sri Bonumaddi Gangadhara Rao S/o Chiranjivulu of Eluru was granted D-Form patta to an extent of Ac.4.33 cts in R.S. No.1/2 pts and ¼ pt (Old) of Pedavegi village vide L.D. No.40/84 dt.20.2.1975 treating him as Ex-Servicemen.
- b) The Mandal Revenue Officer, Pedavegi in his order No.Rc.72/90 dt.30.8.90 cancelled the D-From Pattas so granted on the ground that the assignees failed to bring the land under cultivation even after lapse of 15 years. The petitioner is one among the person whose pattas were cancelled.
- c) Aggrieved by the orders of the Mandal Revenue Officer, Pedavegi about 19 Ex-Servicemen including the petitioner herein filed appeal petitions before the Revenue Divisional Officer, Eluru for restoration of their pattas. The Revenue Divisional Officer, Eluru in his order dt. 27.12.1991 in Roc.No.C/2403/90 have set-aside the orders of the Mandal Revenue Officer, Pedavegi and directed to restore the land in favour of 13 Ex-servicemen including the land of the petitioner.

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- d) The Collector, W.G., Eluru in his proceedings No. Roc.A6/13674/92, dt.22.11.1992 issued orders suspending the orders of the Revenue Divisional Officer, Eluru until further orders, as there were a number of land disputes in Pedavegi village. Based on the report of the Inquiry Officer, ie., the District Manager, A.P.S.C.S.C., Eluru so appointed, the Collector, passed orders vide proceedings No.Roc.A11/1617/90, dt.25.04.1994 duly cancelling the orders of the Revenue Divisional Officer, Eluru has made the following observations:-
- i) that the assignee did not bring the land under cultivation.
  - ii) that the land has been encroached by the local S.Cs who are raising crop i.e., horse gram.
  - iii) that there is clear violation of the condition of D-Form patta.
- e) The Mandal Revenue Officer, Pedavegi was directed to assign the land to the landless poor as per their eligibility and to provide alternate land to Sri Bonumaddi Gangadhara Rao (Petitioner herein) for assignment as a last chance to bring the said land under cultivation.
- f) Aggrieved by the above orders of the Collector, the petitioner has filed Revision petition before Commissioner of Land Revenue, A.P., Hyderabad. The Commissioner of Land Revenue in his order NO.BCW.5/1317/94, dt.10.11.94 while allowing the Revision petition remanded the petition to the Joint Collector, W.G., Eluru to dispose of the case after issue of fresh show cause notice to the petitioner.
- g) In pursuance of the orders issued by the Commissioner of Land Revenue, A.P., Hyderabad, a notice was issued by the Joint Collector to the petitioner on 12.12.1994 calling for his explanation regarding cancellation of his patta. The petitioner has submitted his explanation on 28.1.1995 and requested to drop action proposed to take against him. The petitioner has also filed a WP. No.8114/97 before the Hon'ble High Court and the Hon'ble High Court disposed off the W.P. with a direction to the Joint Collector to dispose off the matter after giving an opportunity of hearing the petitioner. Based on the Orders of the Hon'ble High Court, the Counsel for the petitioner filed Vakalat on 28.6.1997.
- h) From then several notices were issued to the counsel for petitioner to attend before the court and represent their case, but they did not evince any interest. After due consideration of the facts of the case and perusal of the records, the Joint Collector dismissed the petition with the following observations:-
- i) The petitioner never occupied the land and he is not an assignee in true spirit. The Act 9/77 is not attracted in the present case.
  - ii) The petitioner is not the resident of the village and moreover he has violated the conditions of the D-Form patta.
  - iii) The enquiry officer has also stated that the lands assigned were full of shrubs and the local landless poor reclaimed it and brought the land under cultivation and that the lands are under the enjoyment of the local landless poor people.
  - iv) That the local landless poor were granted pattas to the land assigned to the present petitioner and similarly to the other local encroachers.
- i) The Revision Petitioner moved the Hon'ble High Court and the Hon'ble High Court in its order dated 12-2-2009 in W.P.No.25602/2008 while disposing the WP has directed to present a copy of the revision filed by her against the order of the second respondent dt.25-4-1994 and other relevant papers along with the copy of this order before the 1<sup>st</sup> respondent and the 1<sup>st</sup> respondent shall dispose of the revision within a

period of three months from the date of receipt of a copy of this order from the petitioner.

- j) Smt. B. Vitalamma W/o Late Bonumaddi Gangadhara Rao, Eluru, West Godavari District has filed a Revision Petition on 6-10-2007 against the orders of the Mandal Revenue Officer, Pedavegi for having cancelled the D-Form patta granted to the petitioner in R.S. No.1/2 pt, ¼ pt for an extent of Ac.4.33 cts of Pedavegi village.
- k) The R.P. was heard at 4:00 PM on 24-4-2010 and the Revision Petitioner was requested to file written arguments. The Counsel for the Revision Petitioner has submitted the written arguments.
- l) Meanwhile the wife of the petitioner filed a contempt case No.273/2010 before the Hon`ble High Court and the Hon`ble High Court in its order dt.31-5-2010 has directed the 1<sup>st</sup> respondent i.e., Government to dispose of the revision.

4. The Counsel for Smt. B. Vitalamma W/o Late Bonumaddi Gangadhara Rao, Eluru, West Godavari District has filed the revision petition dt.7-9-2009 citing the following grounds:-

- a) The order of the learned Joint Collector is contrary to law, weight of evidence and probabilities of the case.
- b) The learned Joint Collector erroneously failed to consider the grounds raised by the petitioner herein.
- c) The learned Joint Collector erroneously without applying mind passed orders mechanically.
- d) The learned Joint Collector erroneously failed to pass proper reasoned order.
- e) The learned Joint Collector erroneously and mechanically relied on the enquiry officer's report and passed orders without discussing its contents etc.
- f) The learned Joint Collector failed to appreciate the fact that the petitioner was assigned the land in the year 1974 and the petitioner raised dry crops over the land. This aspect is corroborated by the fact that show cause notice is issued in the year 1994.
- g) The aspect of taking loan from LMB Eluru supports the petitioner's case that he is cultivating the land.
- h) The learned Joint Collector ought to have seen that the proposed action is barred by time.
- i) The learned Joint Collector erroneously held that the petitioner has not denied that he has not brought the assigned land into cultivation.
- j) The learned Joint Collector ought to have seen that the petitioner never violated any conditions of assignment.
- k) The learned Joint Collector erroneously assumed jurisdiction to decide a land dispute which is exclusively within the jurisdiction of a competent civil court.
- l) The petitioner has filed Revision petition before the Government to set aside the orders dt.30-8-1990 passed in Rc.No.72 of 1990 passed by the MRO, Pedavegi Mandal in canceling the petitioner's D-Form Patta and as confirmed by the Joint Collector, West Godavari, Eluru in Proceedings dated 14-08-2000 in D.Dis.(E3)1617/90 and consequently direct the respondents to put the petitioner into possession of the property and pass such other order or orders as are deemed fit, just and proper in the circumstances of the case.

5. In the reference 3<sup>rd</sup> read above, the Collector, West Godavari has furnished his remarks on the grounds of the Revision Petition as follows:

- i) It is evident that Sri B. Gangadhara Rao & Sri Basavaiah of Pedavegi, Eluru West Godavari District were granted lands on 'D' form pattas to an extent of Ac.4.33 Cts each in Rs.No.998 and 1293/3 respectively.
- ii) The beneficiary has never resided in the village.
- iii) Sri Bonumaddi Gangadhara Rao of Eluru or their family members have not cultivated the lands granted on 'D' form pattas.
- iv) In view of the above as the assignees have violated the conditions of D-Form patta in cultivating the lands even after a lapse of 15 years from the date of grant of patta and also the land was already assigned to other eligible local landless poor and pattadar pass books were also issued to them, the land cannot be restored and assigned to the Revision Petitioners. As the new assignees are at present in possession of the subject land, alternative land was also offered to the petitioners, who subsequently rejected to receive the land and hence the revision petition need not be considered.
- v) the Revision Petitioner failed to submit his revision petition within a stipulated time and filed Revision Petition after completion of 7 years before the Hon'ble Minister for Revenue, Govt. of A.P., Hyderabad on 06.10.2007 against the proceedings bearing No. Roc.1617/90, dated 15.01.1999 issued by the Joint Collector, West Godavari, Eluru.

6. The Collector, West Godavari has requested the Government to take further necessary action in the matter.

7. After examination of the records, and going through the contention in the revision petition filed by Smt. B. Vitalamma W/o late Bonumaddi Gangadhara Rao, Eluru, West Godavari District it is observed that:-

- (1) As per the field level reports the revision petitioner, who is the assignee of land in question did not bring the land into cultivation and thereby violated the condition of D-Form Patta.
- (2) She has allowed the land to be cultivated by other people in the village.
- (3) The contention of the petitioner that the D-Form Patta cannot be cancelled for violation of conditions after 3 years of its allotment is not sustainable. There is no such limitation.
- (4) The petitioner's contention that if the land is brought under cultivation within the first 3-years of its assignment and thereafter left fallow then it need not attract any penalty is not tenable. When the land has been assigned for cultivation it must be used for that purpose only.

8. In view of the above reasons, the Revision Petition filed by the petitioner is hereby dismissed and orders passed by the Mandal Revenue Officer, Pedavegi Mandal dt.30-8-1990 in Rc.No.72 of 1990 and the Joint Collector, West Godavari, Eluru in Proceedings dated 14-08-2000 in D.Dis.(E3)1617/90 are confirmed.

9. The District Collector, West Godavari, Eluru shall take necessary action in the matter.

10. The original records received through the reference 3<sup>rd</sup> cited bearing D.D.No.1617/90 (E3), dt.14-8-2000 containing paged cf.1097 and nf.69 are returned herewith to the District Collector, West Godavari, Eluru and he is requested to acknowledge the same.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

ASUTOSH MISHRA,  
PRINCIPAL SECRETARY TO GOVERNMENT.

To

The District Collector, West Godavari, Eluru (with original record).

Smt. B. Vitalamma W/o late Bonumaddi Gangadhara Rao, Eluru, West Godavari District.

Sri K.V.Ravi Prasad, Advocate, 16-8-240/3, C Block, Vedant Paradise, Nalgonda 'X' Roads, New Malakpet, Hyderabad -36.

Copy to the Spl.CS&CCLA, Hyderabad.

Copy to the Joint Collector, West Godavari District.

Copy to the Tahsildar, Pedavegi Mandal, West Godavari district.

Copy to the PS to Secretary to Govt.(RT), Revenue Dept.

Copy to PS to GP for Revenue, High Court of A.P.

Stock-file.

//FORWARDED::BY ORDER//

SECTION OFFICER.